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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/966,081 | 10/01/2001 | Richard C. Rose | 2000-0573 | 5388 |
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EXAMINER

JACKSON, JAKIEDA R

ART UNIT

PAPER NUMBER

2626

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/966,081

Applicant(s)

ROSE ET AL.

Examiner

Jakieda R. Jackson

Art Unit

2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants argue that Reynar et al. teach away from the present invention by focusing on correcting speech recognition mode errors. However a prior art reference that "teaches away" from the claimed invention is a significant factor to be considered in determining obviousness; however, "the nature of the teaching is highly relevant and must be weighted in substance. A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." In re Gurley, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994).

...The court held the claims would have been obvious over prior art because the reference taught epoxy resin based material was useful for applicant's purpose, applicant did not distinguish the claimed epoxy from the prior art epoxy, and applicant asserted no discovery beyond what was known in the art.

Furthermore, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed..." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Also, Applicants are unsure of the Examiner's position regarding the evidence of the lack of motivation to combine. However, a reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering the problem. Where the general scope of a reference is outside the pertinent field of endeavor, the references may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved (see MPEP 2141.01(a)[R-3])

Applicant also argues that Reynar et al. fail to teach anything regarding the last step of claim 1 which requires applying at least one language model to the single concatenated lattice in order to determine relationships between the plurality of lattices. Applicants pointed out that there is simply no discussion in Reynar et al. of any analysis of determining a relationship between a plurality of lattices. However, applicants arguments are not persuasive. Reynar teaches that the larger lattice can be traversed to produce alternatives for the adjacent pieces of text. Alternatively, speech input data may be represented by a list of the n-best alternatives and their associated probabilities (column 8, lines 46-51), which is the relationship.

Applicants also argue that in none of these cases is there a description of how to process speech recognition error, i.e. where the speech has been transcribed into the wrong words via an error in recognition. Further the applicants argue that the Examiner does not address the difference between correcting speech recognition errors and correcting speech mode recognition errors taught by Reynar et al.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., speech recognition errors vs. speech recognition mode errors) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicants also argue that when dictating speech for recognition and input to a word processor there are no "plurality of data fields". Applicants further argue that a non-limiting and simple example would be where a user in inputting information about his or her name and address on a website. In that situation, there are data fields for name, address, phone number, email address, etc. Such data fields delineations are not found in a word processor where the user can simply add any text without restriction or expectation that the entered data will conform to any predetermined type of data such as name or address. Therefore Applicants submit that this feature of claim 1 related to the utterances being associated with a plurality of data fields is not taught by Reynar et al.

However, Reynar et al. teach that a lattice stores words or phrases produced by a speech input source nodes. Because each word or phrase is speech input data, the node also stores a probability assigned to the associated word or phrase (column 8, lines 39-42). These nodes are data fields used to determine what the correct utterance is which is transparent to the user. Therefore, applicant's arguments are not persuasive.

Applicants further argue that there is no teaching or suggestion about the generation of the recited concatenated lattice and further no teaching here regarding applying a language model to determine relationships between the plurality of lattices. Reynar et al. teach a language model, the method that generates the n-best alternatives list, which may be produced from a lattice representing the word or phrase (column 8, lines 32-54).

Applicants further argue that because there is insufficient motivation to combine Reynar et al. with Thrasher et al., that the claims are in condition for allowance. Applicants also argue that the legal standard is not whether a paragraph in a reference can be cited but whether the teachings of the reference as a whole have sufficient suggestive power or motivation to combine with another reference. The Applicants provide a simple example of a bike and a speech recognition method, in which the Examiner appreciates, however disagrees. The "motivation-suggestion-teaching" test asks not merely what the reference disclose, but whether a person of ordinary skill in the art, possessed with the understanding and knowledge reflected in the prior art, and motivated by the general problem facing the inventor, would have been led to make the combination recited in the claims. See Cross Med. Prods., 424 F.3d at 1321-24. From this it may be determined whether the overall disclosures, teachings, and suggestions of the prior art, and the level of skill in the art-i.e., the understandings and knowledge of persons having ordinary skill in the art at the time the invention-support the legal conclusion of

obviousness. See *Princeton Biochemicals*, 411 F.3d at 1338 (pointing to evidence supplying detailed analysis of the prior art and the reasons one of the ordinary skill would have possessed the knowledge and motivation to combine.) See *In re Kahn* (Fed. Cir. 2006).

In this particular case Reynar et al. teach a system and method for correction of speech recognition mode errors, while Thrasher et al. teach a method and apparatus for generating and displaying n-best alternatives in a speech recognition system. Clearly, both inventions deal with speech recognition and as pointed out before, each limitation is taught and cited from the secondary reference.

Applicants arguments have been considered, but are not persuasive.

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